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Chairperson: Mr. Amor

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The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Second periodic report of Lithuania (*continued*) (CCPR/C/LTU/2003/2)

1. *At the invitation of the Chairperson, the members of the delegation of Lithuania took places at the Committee table.*

2. **The Chairperson** invited the delegation to respond to the additional questions posed by the Committee members in relation to questions 1 to 10 on the list of issues.

3. **Ms. Milašiūte** (Lithuania), replying to a question on the restitution of Jewish property, said that there were different laws for property belonging to individuals and property belonging to religious communities. The laws governing individuals were straightforward, and provided for restitution subject to proof of ownership or lawful succession.

4. The situation with respect to religious property was more complicated. It had not always been easy to find data to prove that the current communities were the lawful successors of the communities whose property had been expropriated. To tackle the problem, the Government had drafted relevant legislation in 2002. A commission had been set up, which had devised a plan of action in consultation with the Ministry of Justice and the International Committee to Represent Jewish Communal Property Claims in Lithuania.

5. Firstly, the Government distinguished between "existing" and "non-existing" communal property. An amendment to the aforementioned legislation had been drafted and was awaiting adoption by the parliament. Under its provisions, "existing" property included buildings, works of art and religious artefacts that had been expropriated during either the Second World War or the subsequent occupation. In order to establish rightful succession, a research programme had been established to comb the State archives for evidence of such rights. To deal with instances where compensation would be necessary in lieu of restitution, assessments of the monetary value of the property had been made and were being reviewed by the Government. Subject to documentary proof of lawful succession, property would be handed over or compensation would be paid.

6. Once the review of the financial claims had been completed, the draft legislation would be put before the parliament for adoption.

7. "Non-existing" communal property included buildings that had been destroyed during the Second World War and the subsequent occupation. The current Government was not liable for the actions of the occupying Power, and would neither restore, nor compensate for, any "non-existing" property. The one exception was financial compensation for land under religious buildings that had been bombed, which was paid from a special fund. Restitution of "non-existing" property was still at the planning stage, and she could not provide further details.

8. Individuals did not have access to the Constitutional Court of Lithuania in cases of human rights violations. They could request the lower courts to apply to the Constitutional Court for a ruling on the constitutionality of a legal issue. The case in which the issue had arisen would be suspended pending the Court's ruling. The system functioned efficiently. She regretted that there were no statistics on complaints on human rights issues being referred to the Constitutional Court.

9. Penalties under the new Criminal Code included deprivation of liberty, disenfranchisement, deprivation of the right to work, fines and community service. Disenfranchisement consisted of disbarment from election or appointment to public office or to positions in non-governmental organizations. The penalty was imposed at the discretion of the court, usually for abuse of the rights or privileges of office. Disenfranchisement might be imposed for one to five years. Community service was subject to the consent of the convicted party, and consisted of 10 to 40 hours of service per month.

10. On the issue of prison conditions, she said that minors and adults were held in the same cells only under exceptional circumstances and with the approval of the prosecutor. The isolation requirement was strict, although the law did not define exceptional cases.

11. **Mr. Žilinskas** (Lithuania) said that his Government considered the issue of domestic violence to be of the highest priority. The National Equal Opportunities Programme, established in June 2003, aimed to improve the legal framework for separating the violent offender from the victimized family, and to provide support for the victims. A network of crisis

centres had been established, for both men and women. More such facilities were needed.

12. The laws relating to violence against children had not changed significantly under the new Criminal Code. A new chapter had been added pertaining to criminal liability for sexual coercion, such as rape of a minor or an underage child and sexual harassment. Articles of the Code establishing criminal liability for crimes against human health or freedom provided for stricter sanctions when such crimes were committed against minors. There were laws governing the conduct of guardians (caretakers).

13. A provision of the Civil Code allowed children under 14 years of age who believed their rights were being violated by their parents to apply independently to the Child's Rights Protection Agency. Employees of training, education, health care, police and other institutions were obliged to notify the Agency of any incidents of ill-treatment of children by their parents. Children whose lives were in danger could be removed from parental care. Child victims of violence and their families were provided with psychological counselling.

14. It was not easy to determine the scope of violence against children. The police held regular discussions with educational institutions with a view to preventing violent incidents, in which children might as easily be the perpetrators as the victims. The Government was setting up a database to facilitate research on the scope of sexual abuse against children, and the Baltic Sea States were also creating a database containing the names of children at risk in that area. In addition, various telephone assistance services existed, and various preventive campaigns were being organized.

15. **Mr. Bliznikas** (Lithuania) said that Lithuania considered sex education a means of fostering the rights of young people. Both governmental agencies and non-governmental organizations and institutions were involved. The Ministry of Education had two programmes in that area. The programme called "Changes" was intended to help 11- and 12-year-old boys and girls understand the physiological and psychological changes related to puberty and the physiology of the human body. It was carried out in secondary schools in Lithuania and involved a guide for teachers, educational posters, textbooks for girls and boys, a booklet for parents and samples of hygiene products. The programme "Preparation for the family and the universal programme of sex education" covered all stages of maturation, from pre-school to secondary, and included instruction for teachers and forums and seminars for parents. The non-governmental organization Family Planning and Sexual Health Association counted several hundred members among doctors, psychologists, journalists, teachers and others. Pharmaceutical companies frequently organized sex education seminars and campaigns on contraceptives, sexual diseases and treatment and similar topics.

16. **The Chairperson** invited the delegation to answer questions 12 to 20 on the list of issues.

17. **Mr. Adomavičius** (Lithuania) said in response to question 12 that owing to its geographical location and other economic and social factors Lithuania was a country of destination, origin and transit for trafficking in human beings; the Government was exerting every effort to combat the problem. In 2003 the Parliament had ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. In 2002 the Government had adopted a two-year programme of control and prevention, aimed at eliminating the conditions that fostered prostitution and trafficking in human beings and developing a system of prevention measures, by means of legislative amendments, diagnostic surveys, better education, social integration of victims and measures against the criminal organizations involved. One aspect of the programme entailed training of social workers, establishment of hot-lines and preparation of leaflets targeted at women who had been victims of domestic violence, prostitution or trafficking. In addition, a broad awareness-raising campaign was being conducted in every municipality and village of the country, primarily to alert women and girls to the methods traffickers used, how to identify them and what remedies were available to victims.

18. On the legislative front, criminal liability for trafficking in human beings had been introduced into the Criminal Code in 1998. Under the new Criminal Code of 2003 the offence of buying and selling a person was punishable by 2 to 20 years' imprisonment. The liability applied irrespective of the nationality and place of residence of the offender or the place where the offence was committed or even whether the act was considered an offence in that place. In criminal proceedings, Lithuania had focused on improving protection for witnesses and victims, in order to

encourage them to give evidence against traffickers. Since trafficking in human beings involved international organized crime, more international cooperation was required.

19. With regard to question 13, the Administrative Code governed the practice on administrative detention and specified which institutions could detain. At borders, the State Border Guard Service was allowed to detain a person who had violated border-crossing rules for up to 3 hours for purposes of drawing up a protocol and up to 48 hours for purposes of identification and determination of additional circumstances. Under article 271 of the Administrative Code, such a person could appeal administrative detention before a court; so far there had been no such cases.

20. Concerning question 14, under the Law on Refugee Status applications for asylum could be submitted in writing or orally at border points, territorial police precincts or the foreigners' registration centre. The State Border Guard Service questioned the alien, collected personal data, ascertained the person's travel route and examined the grounds for filing the application. The information was forwarded to the Migration Department, which conducted a thorough investigation and decided on the asylum-seeker's legal status within 48 hours. An asylum-seeker could not be detained for more than 48 hours except by court decision. If the court decided to detain, the person was placed in the foreigners' registration centre, but the court might opt for a measure alternative to detention. Lithuania respected the principle of non-refoulement. Only if the person had arrived from a safe third country was an application for asylum not considered. If the application was being considered under the regular procedure, which took six months, the asylum-seeker was accommodated in the Refugee Reception Centre. If it was being considered under an accelerated procedure, which took one month, the asylum-seeker would live at the foreigners' registration centre until a decision was made.

21. With regard to question 15, the privacy of telephone communications was guaranteed by law, subject to certain limitations in extraordinary situations for the protection of the State and the public interest. According to the Law on Telecommunications adopted on 9 June 1998, officers conducting a pre-trial investigation could monitor telephone calls with the approval of the investigative judge at the request of the prosecutor, such approval to be obtained within three days from the start of monitoring; if the approval was not forthcoming the operation would have to stop and all records would have to be destroyed.

22. The Law on Operational Activities provided that the use of technical equipment must be authorized by presiding justices of certain courts on the reasoned recommendation of the Prosecutor General. In urgent cases, where life or security was endangered, the prosecutor could make the decision, subject to subsequent approval of a judge.

23. With regard to question 16 on distinctions between religions, Lithuania recognized three categories of religious communities: traditional, recognized by the State and other. There were nine traditional religious communities. Non-traditional religious communities could be granted State recognition by Parliament no less than 25 years after their initial registration in Lithuania, provided their teaching and practice were not contrary to law and morality. Other non-traditional religious communities could obtain legal personality by registering.

24. Concerning question 17, article 4, paragraph 3, of the Law on National Conscription governed alternative service for those who did not wish to bear arms on the grounds of religious or pacifistic beliefs. A special commission composed of representatives of the military, doctors and priests decided on the appropriate alternative military service. However, new draft regulations were being prepared which would make it possible to do alternative service outside the framework of the national defence system.

25. Concerning question 18, the laws of Lithuania regarding the activities and registration of associations, non-governmental organizations and political parties were compatible with the Covenant. As from 1 January 2004, all legal persons must be registered in the new Register of Juridical Persons and must submit certain documents for the purpose, including a certificate of compliance with the requirements of law. The certificate was not required in the case of trade unions. A refusal to allow registration could be appealed to the courts. Under article 1.13 of the Civil Code, in the event of conflict of laws, the provisions of international agreements would prevail.

26. With regard to question 19, the law had been changed in 2001 to allow child benefits to be paid at the request of either of the parents, mother or father.

27. With regard to question 20, the Ministry of Justice and the Judicial Council in 2002 had put together a training programme for judges on international human rights issues and the application and interpretation of international treaties, with special emphasis on the Covenant. The Judicial Training Centre established in 1997 took an active part in the training process. Judges and prosecutors also received training on human rights protection under the PHARE Twinning Project. A special agreement with the United Nations Development Programme on human rights education focused on knowledge of law and human rights at the secondary level through courses for secondary school teachers, textbooks and teaching methods.

28. The Covenant had been published on several occasions in recent years in Lithuania. The text was part of every human rights compilation and textbook on international human rights. The Covenant and the State party's report were available on the Internet, and the concluding observations of the Committee would be translated and posted.

29. **The Chairperson** invited the Committee to put further questions to the delegation concerning their replies to the list of issues.

30. **Mr. Castillero Hoyos** said that he wished to congratulate the delegation on the sustainable progress Lithuania had made in human rights. However, he would appreciate reassurance that all asylum-seekers had access to the application process, irrespective of the country of origin, ethnicity or social status of the petitioners. There had been reports that two groups of Chechens, largely composed of women and children, had been turned back at the border in September 2003. He wondered what impact counter-terrorism measures might have on asylum-seekers, especially with respect to liberty of movement, right to non-refoulement and family unity. With respect to the training of judges, he would like to know what steps had been taken or were contemplated to ensure that the judges hearing applications of asylum-seekers were at the highest level possible.

31. He noted that the new Labour Code prohibited strikes in essential services, a category that was very broadly defined, and that in other industries at least a two-thirds vote of the workers was required to call a strike. It would appear that there were excessive restrictions on labour unions.

32. He wished to know what percentage of the residents of Lithuania belonged to minorities, and, in particular, what percentage of those entitled to vote belonged to minorities, what percentage of political party members belonged to minorities and what percentage of elected posts and of non-elected posts were held by minorities.

33. **Mr. Ando** said that the restitution of Jewish community property confiscated in the Second World War and under the Communist regime had been discussed; that suggested the question of whether the other religious communities were treated equally in that respect. Since the confiscations had occurred in most cases when Lithuania was occupied territory, he wondered whether reparations had been negotiated with the occupying Powers so that religious communities could benefit. He was also interested in knowing whether registered religious communities enjoyed any advantages not accorded to those not registered.

34. Trade unions had not been popular following the breakdown of socialism; he would like to know how many trade unions currently existed and in what sectors. He would also like to know whether they had links with international trade union associations and whether foreign workers were allowed to join trade unions.

35. On the issue of child abuse, according to paragraph 269 of the report a child abused by parents could apply to a State institution for protection. He wondered how that could be done by a very young child and whether the Ombudsman for the Protection of the Rights of the Child could investigate such complaints or could refer them to another agency. Child abuse was hard to detect. In Japan NGO networks sought to help children and also to assist mothers whose desperate situation might lead them to abuse their children, and he wondered whether Lithuania had any such system.

36. **Sir Nigel Rodley** said he was interested in ascertaining the extent to which the new Code of Criminal Procedure had changed pre-existing practices. He enquired whether the police were still permitted to detain suspects without a judicial order and, if so, under what circumstances and for how long. When suspects were detained prior to the issuance of a judicial order, were the police authorized to question them and did a lawyer have to be present during such questioning? In addition, he wished to know at what stage of the

proceedings suspects were allowed access to a lawyer and whether the legal aid system was effective.

37. With reference to paragraph 112 of the report, he asked how far the detention period could be prolonged. He also wished to know whether suspects were detained on police premises and, if not, whether they were returned to those premises for questioning. Did the management of remand and prison facilities now fall within the purview of the Ministry of Justice?

38. Lastly, with reference to allegations of ill-treatment by the Lithuanian police, he wondered whether the delegation could provide any information concerning the number of complaints lodged and the disposal of those complaints.

39. **Mr. Kälin**, referring to question 14 on the list of issues, said that he had studied the additional information on asylum practices. He was concerned that only a handful of individuals per year were granted refugee status and, in that connection, wondered whether the promises enshrined in law on asylum were, in essence, merely theoretical. He asked for more information about the background to that situation.

40. With reference to the question posed by Mr. Scheinin on the application of the principle of non-refoulement in cases of imminent torture, he was still somewhat puzzled. He acknowledged that foreign experts had declared that the new law on aliens was in line with international law; in the context of terrorism, however, the majority of cases involved extradition and not simply the deportation of aliens. He asked whether, in cases of terrorism, the Lithuanian Government would indeed be ready to depart from the principle of non-refoulement.

41. **Mr. Solari Yrigoyen**, with reference to question 17 on the list of issues, recalled that, in its concluding observations on Lithuania's initial report, the Committee had expressed its concerns about the conditions for alternative service available to persons who had a conscientious objection to military service, in particular the grounds for establishing the right to perform alternative service and its length, and had recommended that the State party should clarify the grounds and eligibility for performing, without discrimination, alternative service on grounds of conscience or religious belief to ensure that the right to freedom of conscience and religion was respected. The report before the Committee did not provide any additional information on the situation in Lithuania and he was seriously concerned that the freedom of thought, conscience and religion protected by article 18 of the Covenant was not properly guaranteed under Lithuanian law.

42. In that connection, he wished to know whether anyone could declare himself a conscientious objector or whether individuals were required to prove that they had recognized religious or pacifistic grounds for their objection. Given that the special commission referred to in the written reply to question 17 appeared to be composed of military officers, he wondered whether the criteria used to determine whether individuals should be allowed to carry out alternative service were entirely objective. He asked how many applications had been favourably received and how many had been refused over the past year. In the event of refusal, did applicants have the opportunity to appeal and, if so, to which body? Lastly, he would be grateful to know the duration of alternative service as compared to regular military service and whether such alternative service was restricted to the military domain.

43. **Mr. Wieruszewski**, with reference to question 12 on the list of issues, said that he would like further information on the concrete measures taken to improve the protection of victims and witnesses. He was particularly interested in the immigration status accorded to foreign nationals.

44. He shared Mr. Kälin's concerns about the very low number of individuals granted refugee status. He wondered whether individuals whose applications were being processed were permitted to move freely around Lithuania or whether they had to remain in foreigners' registration centres. When applications for refugee status were refused and applicants decided to initiate appeal proceedings, were they permitted to remain in Lithuania until their cases were resolved or were they expelled?

45. **Ms. Wedgwood** asked whether there were any specific arrangements for the accommodation of children in foreigners' registration centres. She observed that the majority of people seeking asylum in Lithuania were of Russian origin, and asked whether the concept of "stateless persons" existed. With reference to Mr. Ando's question about succession and the restoration of property to religious communities, she would like more details about the criteria for determining that existing religious communities were indeed the rightful successors.

46. **Mr. Depasquale** observed that human trafficking, particularly for the purposes of sex tourism, was on the increase worldwide. The number of reported cases in Lithuania was unusually low, however, and did not appear to reflect the real situation. In that connection, he wondered whether the Lithuanian police kept records of individuals accused of human trafficking by other States. He hoped that the Lithuanian Government's involvement in international efforts to combat the phenomenon would be stepped up when Lithuania acceded to the European Union.

47. With reference to current labour legislation, he noted that the new Code of Criminal Procedure did not permit lawyers affiliated with trade unions to appear before the Supreme Court. He wondered what the implications of that restriction were for the provision of expert legal assistance.

48. **Mr. Ando** noted that Lithuania's economic difficulties meant that women's health was often neglected. In that connection, he would like to know whether Lithuanian women had access to family planning resources, methods of contraception and childbirth assistance.

49. **Mr. Scheinin**, with reference to question 13 on the list of issues, said that the written reply was insufficient. He wished to know whether the judicial review of all types of administrative detention, not just cases relating to border control, was speedy and efficient.

50. Referring to the written reply to question 14, he asked about the pre-trial detention procedures for aliens and asylum-seekers and enquired whether the procedures differed in any way. He wondered whether their cases were actually heard by the courts within the initial 48-hour period of detention, or whether the facts were merely submitted. With reference to paragraph 116 of the report, which addressed extended periods of pre-trial detention authorized by a judicial decision, he enquired whether the courts reviewed the duration of pre-trial detention only once every three months. Lastly, he wondered whether appeals against decisions on refugee status, humanitarian protection or deportation had suspensive effect.

The meeting was suspended at noon and resumed at 12.15 p.m.

51. **The Chairperson** invited the delegation of Lithuania to reply to the Committee's oral questions.

52. **Mr. Vidtmann** (Lithuania), referring to the issue of the participation of national minorities in public and political life, said that the population of Lithuania comprised citizens of 121 nationalities. In accordance with article 33 of the Constitution, all citizens, including those belonging to national minorities, had equal rights to take up positions in the civil service and to participate in State governance. National minorities were represented in all political parties across the ideological spectrum and they also had the right to establish their own parties: there were currently five such parties in Lithuania and the Polish Electoral Action Party and the Union of Lithuanian Russians each held two seats in Parliament. Ethnic minority groups were also represented at the local level: two municipal authorities in the district of Vilnius were controlled by a Polish majority.

53. **Ms. Milašiūte** noted that Lithuania's laws on the restitution of property needed to be amended because they did not adequately address the situation of the Jewish community. Other religious communities did enjoy the right to restitution because they were officially registered and therefore had the status of a legal person. The criteria for succession were not based on bloodlines, but on cultural factors. However, it was too early to discuss them in detail, as the relevant legislation was still in draft form.

54. Only members of the bar could act as lawyers in the Supreme Court but, since thus far there had been no cases in which legal assistance had been denied, she could not provide any information about problems in that context. With respect to the right to strike and the nature of requirements for those working in vital sectors, the Government had tried to balance the interests of the public sector against those of the private sector. With respect to standards among judges, she said that judges attended seminars and received both formal training and training from their colleagues in the workplace. Procedures were in place to deal with judicial errors. With regard to the question of conscientious objectors, she noted that there had been one recent case in which two Jehovah's Witnesses, after being denied the right to perform alternative service, had appealed to the courts and won their case.

55. **Mr. Vidickas** said that under article 10 of Lithuania's Law on Refugee Status, asylum-seekers could not enter Lithuania from a safe third country. It was for the Ministry of the Interior and the Ministry of Foreign Affairs to determine whether the country in

question was safe. The United Nations High Commissioner for Refugees (UNHCR) had intervened with the Lithuanian authorities in November 2002 after two groups of Chechen nationals had been returned to Belarus. UNHCR had found no violation of the law, but had stated that there was a need to monitor practices on the admission of asylum-seekers to the territory. A UNHCR officer had been included in the working group on the drafting of a new law on foreigners. The fall in the recognition rate for refugee status since the year 2000 had been due partly to the introduction of a supplementary protection regime providing temporary residence permits on humanitarian grounds, as well as a more restrictive definition of the word "refugee". Of the 294 asylum applications in 2002, 240 had been of Chechen origin.

56. As of 1 January 2004, only 7,917 stateless persons had been living permanently in Lithuania. With respect to the freedom of movement of asylum-seekers, he noted that under article 12 of the Law on Refugee Status, asylum-seekers could, in exceptional cases, be detained temporarily in foreigners' registration centres. With respect to the suspensive effect of asylum decisions, if asylum was denied by the courts, individuals could apply to the courts and could not be expelled during the appeals procedures. The Law on Refugee Status stipulated that the police could not hold foreign nationals for more than 48 hours, except under exceptional circumstances, and only on the basis of a court decision.

57. **Mr. Žilinskas**, referring to the protection of children's rights, said that Lithuania had an extensive network of non-governmental organizations, to whom individuals could apply whenever those rights were violated. The Government supported those organizations, working closely with the Ministry for Social Security and Labour. With respect to trafficking in human beings, the number of reported cases was low because it was often difficult to obtain evidence from victims about those engaging in trafficking. Victims were either reluctant to name those responsible, or simply did not know. Lithuania had no major expertise in that area, and the appropriate investigative practices were not always applied. Victims were reintegrated into society by the Government and by non-governmental organizations, which provided psychological and other assistance. There were plans to introduce programmes in this area and provide support for the non-governmental organizations, including the creation of a special fund and the establishment of centres for the protection of victims.

58. **The Chairperson**, concluding the Committee's consideration of Lithuania's second periodic report, said that it was important to recognize all that Lithuania had done, and continued to do, in order to ensure respect for the provisions of the Covenant. It was rapidly developing appropriate legislation to confirm to the various international instruments that it had ratified. He also welcomed the bodies and mechanisms established to ensure respect for human rights. There were problems with the ombudsman system, but it, too, was certainly an important contribution to the protection of human rights. Lithuania's Commission on Human Rights appeared to play an active role, and Lithuania was on the right road.

59. However, problems remained in some areas, and he mentioned three in particular: domestic violence, the treatment of foreign nationals and the fight against terrorism. The problem of domestic violence was not, of course, specific to Lithuania. It was hard to combat, but Lithuania must, and could, do more. The protection of children was another area in which greater efforts must be made. It appeared that foreign nationals were not in a very comfortable position in Lithuania. They often encountered difficulties, at all levels of the asylum-seeking process, and were not always able to win effective protection from the courts. With respect to ethnicity in the countries of the former Soviet bloc, many ethnic groups had appeared to retreat back into their communities, thereby condemning themselves to a state of social exclusion, and that ethnic-based political parties had formed in consequence. The existence of ethnic-based political parties might appear to reflect the democratic process, but the dangers of such social divisions were readily apparent.

60. Lastly, he noted that the legitimacy of the fight against terrorism was beyond question. And yet, although it often appeared that States were vying with each other to demonstrate that they had taken the most effective measures to combat terrorism, they should always recall that human rights were always the most important concern. Lithuania would also do well to be somewhat clearer in that regard. In conclusion, he did not doubt that Lithuania would always defend human rights and the provisions of the Covenant.

The meeting rose at 1.05 p.m.